IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 6178 of 2007(I)

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**PETITIONERS**:

1. LALI JOSEPH, SELECTION GRADE ASSISTANT, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

2. SEBASTIAN MAXY.T.B., SELECTION GRADE ASSISTANT, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

3. ROY JAMES, SELECTION GRADE ASSISTANT, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

4. KARUNAKARAN.P.N., SELECTION GRADE ASSISTANT, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND

**RESPONDENTS:**

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LAW DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. ADVOCATE GENERAL, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

3. SECRETARY TO ADVOCATE GENERAL, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

4. PATHUMMA.K.M., OFFICE SUPERINTENDENT, NOW POSTED AS ASSISTANT TRAINEE, OFFICE OF THE ADVOCATE GENERAL, ERNAKULAM, KOCHI-31.

5. G.VALSALA, SELECTION GRADE
CONFIDENTIAL ASSISTANT, NOW POSTED AS ASSISTANT
TRAINEE, OFFICE OF THE ADVOCATE GENERAL,
ERNAKULAM, KOCHI-31.

BY ADV. SRI.P.K.VIJAYAMOHANAN-R5
SPL.GOVERNMENT PLEADER & LIAISON OFFICER
SRI.RAVINDRANATH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

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W.P.(C) No. 6178 of 2007-I

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Dated this the 12th day of June, 2007.

**J U D G M E N T**

The case of the petitioners is identical to the case of the petitioners in W.P.(C) No.12228 of 2007. The learned counsel for the petitioners canvassed the position that all the Typists and Confidential Assistants irrespective whether they are graduates or not should clear the eligibility test held by the P.S.C. In support of that submission, the last sentence in the Note to Rule 3 of Ext.P1 Special Rules is relied on, which reads as follows:

> *"Typists (including Office Superintendents) and Confidential Assistants (including Steno-typists) who pass the suitability test conducted by the Public Service Commission for appointment as Section Officer, will be posted for training as Assistant for a period of one year, if they are likely to be appointed as Section Officer within a period of three years. After their posting for training as Assistant they will continue to work as Assistant till they are appointed as Section Officer."*

Rule 3 of the Special Rules prescribes the method of appointment. Rule 4 of the Special Rules prescribes the qualifications. The qualification prescribed for Section Officer reads as follows:

**Section Officer By transfer-**(i) B.A., B.SC. or B.Com degree of a Recognised University or its equivalent.

> *Provided that those Assistants who have been recruited as per G.O. (MS) 1046/PD dated 14-12-1959 shall be exempted from this qualification.*
>
> *Provided further that non-graduate Assistants who have been recruited otherwise than under G.O.(MS) 1046/PD dated 14-12-1959 and typists (including Office Superintendents) and Confidential Assistants (including Steno-Typists) who possess minimum general educational qualification of S.S.L.C. or its equivalent, shall be eligible for appointment as Section Officer only after passing the suitability test conducted by the Public Service Commission for appointment as Section Officer."*

2. The learned counsel for the petitioners pointed out that the second proviso only makes the Typist/Confidential Assistants eligible and not relieve the graduates among them of the liability to clear the suitability test. I feel that the said contention cannot be accepted. A

proper reading of the Rule would show that only those who are non-graduates need clear the suitability test held by the PSC. The contesting respondents being graduates, the contentions of the learned counsel for the petitioners cannot be accepted.

In the result, it is ordered that the judgment in W.P.(C) 12228 of 2007 will govern this case also.

K.BALAKRISHNAN NAIR,
JUDGE.

MS